

March 4, 2014

By ECF and Hand

The Honorable P. Kevin Castel  
United States District Court  
Southern District of New York  
Daniel Patrick Moynihan Courthouse  
500 Pearl Street  
New York, New York 10007

Re: *Sullivan v. Barclays PLC et al.*, No. 13-CV-2811

Dear Judge Castel:

This joint letter is submitted on behalf of all parties to the above-captioned matter. By letter dated November 1, 2013, the then existing parties (Plaintiff Sullivan and Defendants Barclays, UBS and RBS)<sup>1</sup> jointly informed the Court that Plaintiff intended to file a second amended complaint after receiving information from a disclosed leniency applicant, Defendant Barclays, under ACPERA.<sup>2</sup> ECF No. 74, at 1. The letter further explained that the timing of Barclays' cooperation was contingent on the progress of the Department of Justice's ("DOJ") ongoing investigations into related matters, and that DOJ was of the view that deferral of the commencement of Barclays' cooperation was appropriate to avoid any interference with those investigations. *Id.*

With those considerations in mind, the then existing parties asked the Court to (i) extend the deadline for Plaintiff to file a second amended complaint, (ii) adjourn the Initial

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<sup>1</sup> On November 2, 2013, Plaintiff Stephen Sullivan filed an amended complaint that added an additional plaintiff, White Oak Fund, LP, and additional defendants, namely, Deutsche Bank AG, HSBC Holdings plc, HSBC Bank plc, Crédit Agricole CIB, Société Générale, and Coöperatieve Centrale Raiffeisen-Boerenleenbank B.A. These newly-added parties were not parties to the November 1, 2013 letter. The parties agree that the additional defendants hereby reserve all defenses, including without limitation, lack of personal jurisdiction

<sup>2</sup> Antitrust Criminal Penalty Enhancement and Reform Act, Pub. L. No. 108-237, 118 Stat. 661 (codified as amended at 15 U.S.C. § 1 note).

Pretrial Conference in this action to a later date, after Plaintiff filed his second amended complaint, and (iii) set a date on which the parties would provide the Court a status report that might inform when Plaintiff would be able to file his second amended complaint, and when the Initial Pretrial Conference might be scheduled. *Id.* at 3. The Court granted those requests by an Order dated November 5, 2013, which directed the parties to jointly report to the Court by March 4, 2014 as to the status of the case. ECF No. 77, at 1.

The parties now write to report on the status of the case and propose due dates for (i) Plaintiffs to file a further amended complaint, and (ii) Defendants to respond to or move against that amended complaint. For the same reasons articulated in the November 1, 2013 letter, Plaintiffs request additional time to file a further amended complaint. Plaintiffs continue to seek cooperation from Barclays under ACPERA to inform their further amended complaint, and Barclays continues to intend to provide such cooperation without interfering with the DOJ's or other authorities' ongoing investigations. Accordingly, Plaintiffs request that they be permitted to file their amended complaint in ninety (90) days, by June 2, 2014. Defendants consent to that extension subject to the Court's approval of a schedule for the Defendants to respond to the amended complaint of sixty (60) days, by August 1, 2014, and, if motions to dismiss are filed, sixty (60) days for Plaintiffs to file an opposition, by September 30, 2014, and thirty (30) days for Defendants to file a reply, by October 30, 2014.

#### Plaintiffs' Request to File an Interim Amended Complaint<sup>3</sup>

In the event the Court endorses the above-described schedule, Plaintiffs respectfully propose to file a limited amended complaint to reflect new events since the filing of their operative complaint on November 2, 2013, including recent disclosures implicating JPMorgan Chase & Co. and JPMorgan Chase Bank, NA ("JPMorgan"), defendants previously unknown to Plaintiffs. On December 4, 2013, after the filing of Plaintiffs' operative pleading, the European Commission issued a press release announcing that it had fined four international financial institutions, Barclays, Deutsche Bank, Société Générale, and RBS in connection with derivatives denominated in the Euro currency. In addition to reaching the settlements, the European Commission announced that it opened investigations against Crédit Agricole, HSBC and JPMorgan. The proposed amended complaint would add the JPMorgan entities as defendants herein<sup>4</sup> for purposes of protecting the statute of limitations, without prejudice to Plaintiffs' right to file a detailed complaint by June 2, 2014, and without prejudice to

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<sup>3</sup> While this joint letter is submitted on behalf of all parties, this section of the letter is submitted by Plaintiffs only.

<sup>4</sup> Crédit Agricole and HSBC are already named as defendants in the operative complaint.

Defendants' rights to oppose any extensions of the June 2, 2014 deadline. Defendants have consented to such amendment subject to the Court's endorsement of the schedule proposed in this letter. *See* FRCP 15(a)(2) [“[A] party may amend its pleading only with the opposing party’s written consent or with the court’s leave.”]. Plaintiffs would file such limited amendment within ten (10) days of any Order by the Court granting the relief sought herein.

Respectfully submitted,

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